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OFFICE OF PETITIONS

In re Application of :
Matthews et al. :
Application No. 09/663,483 : ON PETITION
Filed : September 13, 2000 :
Attorney Docket Number: :
1384.006US1 :

This is a decision in response to the request for a refund, filed April 26, 2006. The request is properly treated as a petition under 37 CFR 1.181.

The petition is granted.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action, mailed June 3, 2004.

Applicant filed a petition to revive the application and extension of time fees on March 13, 2006. Because the application was abandoned, no extensions of time were available.

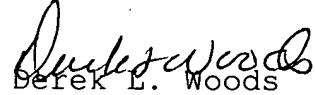
Applicant files the instant petition and requests a refund of the extension of time fees.

The applicable statute, 35 USC 42(d), authorizes the Commissioner to refund "any fee paid by mistake or any amount paid in excess of that required." Thus, the patent and Trademark Office (PTO) may refund: (1) a fee paid when no fee is required (i.e., a fee paid by mistake), or (2) any fee paid in excess of the amount of the fee that is required. See Ex Parte Grady, 59 USPQ 276, 277 (Comm'r Pats. 1943) (the statutory authorization for the refund of fees is applicable only to a mistake relating to the fee payment).

Accordingly, the petition is granted. The extension of time fees have been refunded to deposit account 19-0473 as authorized in the instant petition.

This application is being returned to Technology Center 2155 for processing of the RCE and Amendment in due course.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3232.

A handwritten signature in black ink, appearing to read "Derek L. Woods".

Derek L. Woods
Attorney
Office of Petitions